



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

DEC 29 2017

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John Begert
MRP Realty/Riverfront Investment Partners I, LLC
3050 K Street, NW, Suite 125
Washington, DC 20007

**Re: Opportunity to Confer and Resolve
MRP Capitol River Front
Riverfront Investment Partners I, LLC
NPDES Construction General Permit DCR12A240**

Dear Mr. Begert:

This letter is in reference to an assessment the United States Environmental Protection Agency, Region III, (EPA or Agency) is conducting with regard to Riverfront Investment Partners I, LLC's ("Permittee") construction site known as MRP Capitol River Front which is permitted under the National Pollution Discharge Elimination System (NPDES) general permit for discharges from construction activities, the EPA's 2012 Construction General Permit (CGP). Based on the information reviewed and conditions observed during EPA's inspection of the MRP Capitol River Front site on May 3, 2016 in Washington, D.C., EPA believes that the Permittee was not compliant with the Clean Water Act (CWA) NPDES permit program requirements.

Section 301 of the CWA, 33 U.S.C. § 1311, prohibits the discharge of any pollutant from a point source to water of the United States except in compliance with, among other things, a NPDES permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342. Section 402(a) of the Act, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the NPDES program for the discharge of pollutants from point sources to waters of the United States. The discharges are subject to specific terms and conditions as prescribed in the permit. EPA has retained the authority to issue NPDES permits in Washington, D.C.

As a result of the EPA assessment, EPA has identified the following violations of the Permit:

1. Failure to have a posted notice of permit coverage, in violation of 2012 CGP Part 1.5;
2. Failure to ensure that all required erosion and sediment controls remained in effective operating condition, in violation of 2012 CGP Part 2.1.1.4(a);

3. Failure to provide a natural buffer or equivalent sediment controls between the disturbed property and a surface water located within 50 feet of the site, in violation of 2012 CGP Part 2.1.2.1;
4. Failure to properly protect and maintain storm drain inlets to minimize the discharges of sediment and other pollutants in stormwater runoff, in violation of 2012 CGP Part 2.1.2.9(b);
5. Failure to store chemicals in such a way to prevent them from coming in contact with rainwater, in violation of 2012 CGP Part 2.3.3.3(c)(i);
6. Failure to conduct stormwater inspections of the construction site, in violation of 2012 CGP Part 4.1.2; and
7. Failure to have a SWPPP available on site, in violation of 2012 CGP Part 7.3.

EPA believes that the issuance of an Administrative Complaint seeking assessment of a civil penalty for the aforesaid violations is the appropriate enforcement response in this matter. EPA, however, would prefer to reach a negotiated settlement prior to the filing of a complaint. Settlements reached prior to the filing of a complaint typically offer benefits to both sides, such as avoidance of the costs of litigation as well as more flexibility in the type of settlement reached, such as a settlement that includes a Supplemental Environmental Project. It also provides Riverfront Investment Partners I, LLC an opportunity to confer with the Agency and show cause why a reduced civil penalty should be sought by the Agency in this matter. To that end, EPA is hereby providing Riverfront Investment Partners I, LLC with an opportunity to confer with the Agency in the hope that the parties can commence settlement discussions and resolve this matter without engaging in litigation.

If EPA were unilaterally pursuing an administrative action, it could propose a penalty pursuant to Section 309(g) of the CWA, 33 U.S.C. Section 1319 which allows for penalties of up to \$51,570 per day for each violation and up to a total penalty amount of \$262,066.

If Riverfront Investment Partners I, LLC is interested in resolving this matter prior to the filing of a complaint, as described above, Riverfront Investment Partners I, LLC should respond in writing within **fourteen (14) calendar days** of receipt of this letter. EPA is prepared to meet with representatives of Riverfront Investment Partners I, LLC to further discuss the violations, potential penalties and settlement. Prior to the close of that first meeting, EPA expects that Riverfront Investment Partners I, LLC will inform the Agency whether it is willing to make the required commitment to settle this case before litigation. In addition, a firm schedule for any continuing negotiations must be established prior to, or during, that first meeting and settlement negotiations resulting in a signed Consent Agreement and Final Order (CAFO) and an Administrative Order on Consent (AOC) must be completed **within ninety (90) calendar days** of receipt of this letter. Any final settlement and CAFO will be subject to final approval by the Regional Administrator for EPA Region III or his designee.

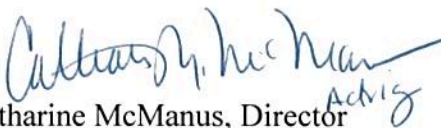
Please note that to the extent there are ongoing violations of the Permit, these violations should be corrected immediately. EPA specifically reserves the right to use any and all enforcement tools in its enforcement discretion to address past and/or ongoing violations regardless of any ongoing discussions in response to this letter. Please direct your written

response as well as all questions and communications with respect to any matters addressed in this letter to the attorney assigned to represent EPA:

Bonnie A. Pugh (3RC20)
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103
Tel: (215) 814-2680
Pugh.Bonnie@epa.gov

I strongly encourage you to give this matter your full consideration, should Riverfront Investment Partners I, LLC and EPA fail to reach a settlement agreement in this matter, EPA reserves the right to seek the maximum allowable penalty at law in litigation.

Sincerely,


Catharine McManus, Director
Water Protection Division

cc: Bonnie A. Pugh, EPA
Aryel Abramovitz, EPA
Walter Caldwell, DC DOEE

